

FILED
U.S. DISTRICT COURTIN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2007 FEB -7 P 1:07

DISTRICT OF UTAH

BY: DEPUTY CLERK

Shawn Lee Allred

Plaintiff,

vs.

Stephen McCaughey,

Defendant.

ORDER DENYING MOTION FOR
CHANGE OF VENUE, TO REOPEN
CASE, AND TO APPOINT
COUNSEL

Case No. 2:06-CV-00600 PGC

This civil matter is before the court on plaintiff Shawn Lee Allred's motion to change venue, to reopen this action, and to appoint counsel. In his complaint, which the court has dismissed, Mr. Allred sought pursuant to 42 U.S.C. § 1983 to sue his federal criminal case counsel for ineffective assistance of counsel. However, as the court previously explained, a prerequisite to relief under § 1983 is that the defendant acted under color of state law.¹ Mr. Allred did not allege that defendant Stephen McCaughey is a state official or committed state action or conduct that is otherwise chargeable to the state. Accordingly, the court dismissed Mr. Allred's complaint.

¹See *Barnard v. Young*, 720 F.2d 1188, 1188-89 (10th Cir. 1188).

Now, Mr. Allred seeks to reopen this action. Mr. Allred, however, has offered no meritorious grounds for doing so. Accordingly, the court denies the motion to reopen this action (#19). Mr. Allred's motion to change venue and appoint counsel (#19) are denied as moot.

SO ORDERED.

DATED this 7th day of February, 2007.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. G. Cassell', written over a horizontal line.

Paul G. Cassell
United States District Judge